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15 **UNITED STATES DISTRICT COURT**
16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 KIM ALLEN, LAINIE RIDEOUT
18 and KATHLEEN HAIRSTON, on
19 behalf of themselves, all others
20 similarly situated, and the general
21 public,

22 Plaintiffs,

23 SIMILASAN CORPORATION,
24 Defendant.

Case No.: 3:12-cv-376-BTM (WMC)

CLASS ACTION

**PLAINTIFFS' FRCP RULE 26(a)(3)
DISCLOSURES**

Judge: Hon. Cynthia A. Bashant
Room: 4B (Schwartz Courthouse)

Complaint Filed: February 10, 2012
Trial Date: March 29, 2016
Pretrial Conference: February 1, 2016
Conference Time: 11:00 am

Pursuant to Federal Rule of Civil Procedure (“FRCP”) 26(a)(3) and this Court’s Scheduling Order entered April 16, 2015 [ECF No. 149], Plaintiffs Lainie Rideout and Kathleen Hairston (“Plaintiffs”) hereby submit the following pretrial disclosures:

I. WITNESSES

Pursuant to FRCP 26(a)(3)(A)(i)-(ii), Plaintiffs set forth the following names, addresses, and telephone numbers of the prospective witnesses, excluding impeachment witnesses, that it expects to present or that they expect to present or that they may call if the need arises. Plaintiffs reserve the right to call any witnesses designated by Defendant. Plaintiffs further reserve the right to supplement or amend its witness list through the time of trial, including the right to supplement or amend based on any rulings provided by this Court.

Witness Name	Address and Telephone Number	Presented by Deposition
Lainie Rideout	Available through Counsel	No
Kathleen Hairston	Available through Counsel	No
Aron Brown	1805 Shea Center Drive, Suite 270 Highlands Ranch, CO 80129 (303) 539-4060	Yes
Kimberly Stark	1805 Shea Center Drive, Suite 270 Highlands Ranch, CO 80129 (303) 539-4060	Yes
Haley Ball	1805 Shea Center Drive, Suite 270 Highlands Ranch, CO 80129 (303) 539-4060	Yes
Andreas Dehmel	1805 Shea Center Drive, Suite 270 Highlands Ranch, CO 80129 (303) 539-4060	Yes

1 2 3 4	Dr. Jon A. Krosnick	Stanford University 432 McClatchy Hall 450 Serra Street Stanford, CA 94305 (650) 725-3031	No
5 6 7	William Ackerman	350 S. Figueroa Street, Suite 900 Los Angeles, CA 90071 (213) 576-1808	No
8 9 10	Noel R. Rose, M.D., Ph.D.	The Johns Hopkins Medical Institutions 615 N. Wolfe St., MMI E5014 Baltimore, MD 21205 (410) 502-0759	No
11 12 13 14 15	Robert J. Lee, Ph.D.	College of Pharmacy, The Ohio State University 542 LM Parks Hall 500 W. 12 th Avenue Columbus, OH 43210 (614) 292-4172	No

II. EXHIBITS

Pursuant to FRCP 26(a)(3)(A)(iii), Plaintiffs set forth the documents and exhibits they expect to offer at trial or that they may offer if the need arises, excluding those offered only for impeachment purposes. Where an exhibit is described as an email, the exhibit includes all attachments to that email.

Plaintiffs reserve the right to supplement or amend their exhibit list through the time of trial, including the right to supplement or amend based on any rulings provided by this Court, and to use additional documents as necessary during cross examination of Defendant's witnesses. Plaintiffs further reserve the right to use any admissions from the pleadings, briefs, motions, discovery responses, other documents filed, and exhibits thereto.

List of Plaintiffs' Exhibits:

No.	Date Marked	Date Admitted	Description
1.			Aron Brown Deposition Exhibit Ex. 1 SIM 00000407-408
2.			Aron Brown Deposition Exhibit Ex. 2 SIM 00027279-27281
3.			Aron Brown Deposition Exhibit Ex. 3 "Pink Eye Relief" packaging and "Walgreens Homeopathic – Pink Eye Remedy" packaging
4.			Kimberly Stark Deposition Exhibit Ex. 1 – Australian Government National Health and Medical Research Council "NHMRC Statement: Statement on Homeopathy"
5.			Kimberly Stark Deposition Exhibit Ex. 2 SIM 00027122-00027123
6.			Kimberly Stark Deposition Exhibit Ex. 3 SIM 00034743-34744
7.			Haley Ball Deposition Exhibit 1 SIM 050386-050389
8.			Haley Ball Deposition Exhibit 2 SIM 050390
9.			Haley Ball Deposition Exhibit 3 SIM 00033472
10.			Haley Ball Deposition Exhibit 4 Hyland's Arnica 30x Packaging
11.			Haley Ball Deposition Exhibit 5 Similasan Dry Eye Relief packaging
12.			Haley Ball Deposition Exhibit 6 Similasan Earache Relief packaging
13.			Andreas Dehmel Deposition Exhibit 1 Similasan Corp. Statements of Operations and Retained Earnings 2008-2014

14.			Andreas Dehmel Deposition Exhibit 2 Similasan Corp. Statements of Operations and Balance Sheets 2008-2014
15.			Andreas Dehmel Deposition Exhibit 3 Similasan At-Issue Products – Advertised Online Retail Prices as of April 22, 2014
16.			Andreas Dehmel Deposition Exhibit 4 Calculation of Retail Sales to Putative Class
17.			Andreas Dehmel Deposition Exhibit 5 Similasan Summary of Profit for California
18.			Expert William Ackerman Production ACKERMAN000001- 000017
19.			Expert Jon Krosnick Production KROSNICK000001-000106
20.			Expert Lee’s Production LEE_SIMILASAN000001-00248
21.			Expert Rose Production, ROSE000001; ROSE_SIMILASAN00112-00120
22.			Rebuttal Report of William R. Ackerman Dated May 12, 2014
23.			Supplemental Expert Report of William R. Ackerman, CPA Dated July 27, 2015
24.			Expert Report of Dr. Jon A. Krosnick Dated July 23, 2015
25.			Second Expert Report of Dr. Jon A. Krosnick Dated May 12, 2014
26.			Expert Report of Dr. Robert J. Lee, Served on August 3, 2015
27.			Declaration of Noel R. Rose, M.D., Ph.D. Dated May 22, 2014
28.			Expert Report of Dr. Noel R. Rose, Served on August 3, 2015

29.			Third Amended Complaint (Doc. No. 58)
30.			Marketing Document from Similasan SIM00000001-2
31.			2010 Marketing Plan SIM00000011 (powerpoint)
32.			2011 Q1 Tactics (powerpoint) SIM00000014
33.			Earache, Nasal and Well Being Data Ending 6.13.09 (powerpoint) SIM00000018
34.			Active Ingredients SIM 00000021
35.			2010 Price List SIM00000610; 00005191-5192
36.			2012 Summary of Profit SIM00030134-30140
37.			Audited Financials SIM00027173-27188
38.			Similasan Brand Position and Packaging Design Research (powerpoint) SIM00016475
39.			Similasan Branding Project (powerpoint) SIM00020097
40.			Minter + Reid Eye Drops Product Concept June 2010 SIM00026225
41.			Label Allergy Eye Relief SIM0003874
42.			Label Allergy Eye Relief SIM00012643
43.			Label Pink Eye Relief SIM00003875
44.			Label Pink Eye Relief SIM00014814
45.			Label Nasal Relief SIM00005615
46.			Label Dry Eye Relief SIM00012363
47.			Label Sinus Relief SIM00012641
48.			Label Earache Relief SIM00012642

49.			Sales and Price Documents SIM0000004-20; 0000525; 0000558
50.			Marketing Materials SIM00000532; 543; 547
51.			Market Research SIM 00016477
52.			Similasan Website SIM 00015552- 15556
53.			Pictures of labels of products SIM 00010984; SIM 00010987 SIM 00010988; SIM 00010991
54.			Description of product SIM 00010974
55.			Similasan Explanation of Product SIM 00005778
56.			Labels of Products SIM 00004750- SIM 00004755
57.			Submissions to Department of Health SIM 00004417; SIM 00004422; SIM 00004426 SIM 00004432; SIM 00004436 SIM 00004442; SIM 00004449
58.			Marketing campaign with gross analysis SIM 00001186
59.			Marketing Charts SIM 00001172- 1177
60.			Target Audience Matrix SIM 00001096
61.			Ad Matrix SIM 00000709-731
62.			2009 Mass Marketing Sales Plan SIM 00000740
63.			2008 Price List SIM 00000557
64.			Marketing Plans 2011 SIM 00000234-239
65.			Marketing literature, analysis and flow charts SIM 00000122-124
66.			List of Ingredients SIM 00001204; SIM 00003957
67.			Similasan Financial Records

68.			Defendant's Similasan Corporation Responses Interrogatories (Set 1)
69.			Defendant's Similasan AG's Responses Interrogatories (Set 1)
70.			Defendant's Similasan Corporation Responses Interrogatories (Set 2)
71.			Defendant's Similasan Corporation Responses to Request for Admissions (Set 1)
72.			Packaging messaging SIM 00018548
73.			Edits to labels SIM 00018553-18555
74.			Label changes SIM 00018556-18560
75.			Location of products sold and distribution stores SIM 00018668-SIM 00018674
76.			Instructions how to use product SIM 00018677
77.			Documents identifying science claims of products SIM 00000062-SIM 00000095
78.			Claim Substantiation for Ear Ache Relief SIM 00003951-3953
79.			Claim Substantiation for Pink Eye Relief SIM 00003954
80.			List of Ingredients SIM 00004181-4184; SIM 00005280
81.			Active Ingredients from HPUS SIM 00005405
82.			Product Comparison 7-3-14.pptx SIM 00042053-42054
83.			Weekly Point of Sale details SIM 00042075 - SIM 00042079
84.			Similasan profile for Chain Drug Review.msg SIM 00042099
85.			Similasan_Key Findings_July 22 2014.pdf SIM 00042184

1	86.		July 2014 Monthly Marketing / Sales Recap .msg SIM 00042263
2			
3	87.		August 2014 Similasan Price List Mass.xlsx SIM 00042295
4	88.		August 2014 Promotions & Marketing_8.21.14.pdf SIM 00042350
5			
6	89.		Weekly sales numbers October 10 2014 SIM 00042501
7			
8	90.		10/5/14 Snippet & Monthly Overview SIM 00042573-74
9	91.		Weekly sales numbers November 21 2014 SIM 00042590
10			
11	92.		Weekly sales numbers December 26 2014 SIM 00042699
12	93.		Weekly sales numbers January 16 2015 SIM 00042771
13	94.		Weekly sales numbers March 6 2015 SIM 00043207
14			
15	95.		Weekly sales numbers April 17 2015 SIM 00043799
16	96.		Weekly sales numbers April 24 2015 SIM 00043899
17	97.		Similasan company info.pptx SIM 00043811
18	98.		Similasan_AGM SIM 00043814
19	99.		Eye slide for CVS SIM 00043927
20	100.		Weekly sales numbers May 8 2015.xlsx SIM 00043952
21	101.		USA New Packaging Status 01.10.14 SIM 00044365
22			
23	102.		Similasan Spreadsheet SIM 00044857
24	103.		Similasan Weekly Unit POS Sales Detail 07.13.14. SIM 00045056
25			
26	104.		May 2014 Similasan Price List Mass.xlsx SIM 00045072
27	105.		SPINS Data - November 2014 SIM 00045217-45218

106.			Emerson Price List Spreadsheet SIM 00045432-00045433
107.			FTC emails message SIM 00045860-62
108.			2014 Marketing Budget Plan HBA 6-9-14 SIM 00046033
109.			Marketing plan 2014 SIM 00046836
110.			2015 Big Spreadsheet Marketing Budget 2015 SIM 00046905
111.			2015 marketing budget overview SIM 00046950
112.			CVS Eye Ear November 2014 SIM 00047276
113.			March 2015 Promotions Marketing 3.4.15 new design SIM 00048863
114.			Plaintiffs' Production PLSimilasan000001-000181
115.			Plaintiffs' Production PLSimilasan00000218
116.			Plaintiffs' Production PLSimilasan00000232-234
117.			Plaintiffs' Production PLSimilasan00000244-245
118.			Plaintiffs' Production PLSimilasan00000251-252; 255
119.			Plaintiffs' Production PLSimilasan00000291-1642
120.			Clinical Overview SIM0031385- 31390
121.			Continuing Education 12-4-201 SIM0029802-29829
122.			Study re: eye drop effectiveness SIM00019538-40
123.			Label SIM00014121
124.			Email SIM00016671-16685
125.			Letter to FDA SIM00029514- 29539
126.			Internal memo 6/8/11 SIM0029542

1	127.		FTC letter 6/17/2013 SIM00031256
2	128.		Letter from Similasan to FDA 7/6/2011 SIM00029967-29970
3	129.		Creative Brief Template 10/22/2008 SIM00019647-48
4	130.		2013 Business Plan (native)
5	131.		TRIG Similasan Claims Test February 2013 (native)
6	132.		Email re: Claims Set Up and Survey SIM00031806-31823
7	133.		Email from Johanna SIM00016649
8	134.		Email From Dora Newlin string SIM00031373-31378
9	135.		Similasan Claims SIM32324- 32332
10	136.		Emails from Aron Brown string SIM 00005686-5691
11	137.		Doctor Recommended Form SIM 00029881
12	138.		FDA Correspondence SIM0029725-26
13	139.		Document on Similasan Claims SIM00030831-33
14	140.		Active ingredients SIM00005339- 5342
15	141.		Justification of Combination Productions SIM00031379-31384
16	142.		Creative Brief for Ear Relief SIM00030804-05
17	143.		Product Ingredients SIM00020063- 64
18	144.		Dan Quail Deposition Exhibit 2 – SIM 00040841
19	145.		Dan Quail Deposition Exhibit 3 – Exhibit 1 to the Third Amended Complaint
20	146.		Dan Quail Deposition Exhibit 4 – Email from Susan Maynard to Sherrod Bott and John Crain re:

			Ingredient to Ingredient List, Dated March 10, 2008
147.			Dan Quail Deposition Exhibit 5 – SIM 00014592
148.			Dan Quail Deposition Exhibit 6 – SIM 00010169
149.			Dan Quail Deposition Exhibit 7 – Claim Substantiation for Similasan, Pink Eye Relief eye drops
150.			Dan Quail Deposition Exhibit 8 – Email from Lauren Wittenberg to Dan Quail, Haley Ball, Yann Pigeaire, and Don Steiert re: Similasan Irritated Eye v. TRP Sales Performance, Dated January 20, 2015
151.			Dan Quail Deposition Exhibit 9 – Similasan USA Page
152.			Dan Quail Deposition Exhibit 10 – SIM 00025167; SIM 00025344
153.			Dan Quail Deposition Exhibit 11 – Weekly Sales Number 2014 9/30/2014
154.			Dan Quail Deposition Exhibit 12 – Rating chart for products
155.			Dan Quail Deposition Exhibit 13 – Email from Jure Bature to Haley Ball, cc: Dan Quail re: Budget Marketing 2014 FINAL, Dated October 23, 2013
156.			Dan Quail Deposition Exhibit 14 – Email from Joanne Sheean to Melissa Mursch, Dan Quail and Jure Bature re: 2009-2013 Marketing Spend/Tactics, Dated February 15, 2014
157.			Dan Quail Deposition Exhibit 15 – Similasan Facts and Figures presentation by Dan Quail

158.			Dan Quail Deposition Exhibit 16 – 2013 Business Plan (Version 9/27/2012)
159.			Dan Quail Deposition Exhibit 17 – SIM 00003768-00003770; SIM 00027759; SIM 011066-011068; SIM 00044148-00044150; SIM 00016472; SIM 005550

GOMEZ TRIAL ATTORNEYS

Dated: December 28, 2015

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